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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,322	02/02/2005	Yves Roesch	NITROF P60AUS	7676
20210	7590	10/16/2007	EXAMINER	
DAVIS & BUJOLD, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301			ADAMS, GREGORY W	
ART UNIT		PAPER NUMBER		
3652				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/523,322	ROESCH, YVES
	Examiner Gregory W. Adams	Art Unit 3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 September 2007.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 31-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 31-50 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
- 6) Other: _____

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 31 recites an interlacing device with an intended use of a palletizing machine. However, the body of claim 31 positively recites "the palletizing machine" in lines 20-21. Thus, its unclear if Applicant is claiming the subcombination interlacing device or the combination of an interlacing device and palletizing machine, i.e. whether a palletizing machine as part of the invention or whether its merely intended use. It is noted that independent claim 41 recites the combination of a palletizing machine with an interlacing device. For purposes of examination it is assumed that a palletizing machine in claim 31 is intended use.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31-40 & 46-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keck (US 3,664,089) (previously cited) in view of Haefflinger et al. (WO 200206121) (previously cited).

With respect to claims 31 & 46-50, Keck discloses an interlacing device for use in a palletizing machine comprising-

- an interlacing gantry 8 (e.g. chassis), rollers comprising a guide carried by a cross-beam 8;
- a gantry base structure guide section 7 perpendicular to a crossbeam;
- drive mechanism 12, 14, 15, 16.

Keck does not disclose uprights. Haefflinger et al. disclose uprights 3 interconnected by a cross-beam 5 that move a spool between two positions similar to the movement in Keck which integrates interlacing of tubes into a palletizing machine. Haefflinger et al. Abstract. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Keck to include uprights, as per the teachings of Haefflinger et al., to integrate interlacing into a palletizing machine.

With respect to claims 32 & 33, Keck discloses a drive means mechanism.

With respect to claim 34, Keck discloses electric motors 15, 16.

With respect to claim 35, Keck discloses pulley 11, 12.

With respect to claims 36 & 37, Keck discloses a pathway 7.

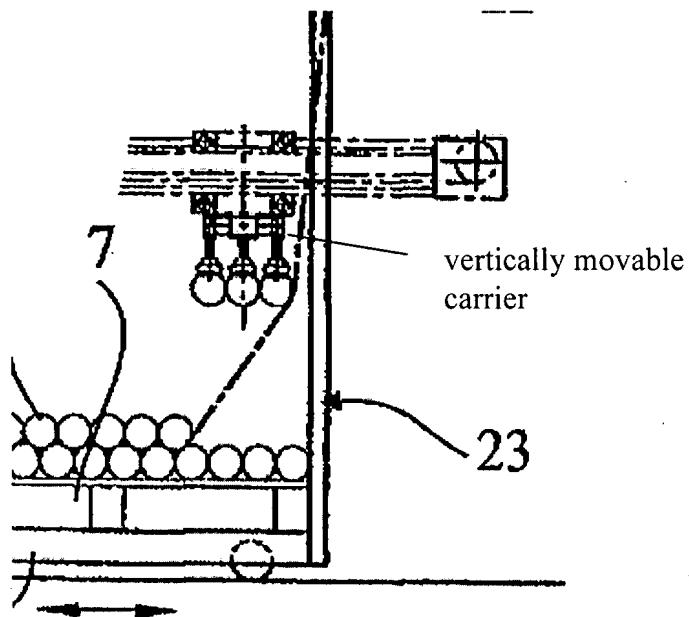
With respect to claims 38-40, Keck does not disclose two guides and two activating cylinders. Haefflinger et al. disclose two guides 20, 40 with electric activating means 4 that move a spool between two positions similar to the movement in Keck which integrates interlacing of tubes into a palletizing machine. Haefflinger et al. Abstract. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify

the apparatus of Keck to include two guides, as per the teachings of Haefflinger et al., to integrate interlacing into a palletizing machine.

With respect to claims 41 & 42, Keck discloses a palletizing machine comprising-

- a movable gripping device (C1/L15);
- an interlacing gantry extending generally parallel to and along at least a portion of a length of the products, an interlacing gantry comprising a guide 8 for supplying an interlacing material from a spool 7;
- a guide 8 carried by a cross-beam;
- a guide section 7 of a gantry base structure extends substantially perpendicular to a cross-beam for facilitating movement of a cross-beam along an interlacing device,
- a drive mechanism 12, 14, 15, 16.

Keck does not disclose a vertically movable carrier or upright posts. Haefflinger et al. disclose a vertically movable carrier (See fig. 2 below), two guides 20, 40 with electric activating means 4 that move a spool between two positions similar to the movement in Keck which integrates interlacing of tubes into a palletizing machine. Haefflinger et al. Abstract. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Keck to include two guides, as per the teachings of Haefflinger et al., to integrate interlacing into a palletizing machine.



With respect to claim 43, Keck discloses means 15, 16 for controlling a drive mechanism.

With respect to claims 44 & 45, Keck does not disclose two guides and an activating means. Haefflinger et al. disclose two guides 20, 40 with electric activating means 4 that move a spool between two positions similar to the movement in Keck which integrates interlacing of tubes into a palletizing machine. Haefflinger et al. Abstract. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Keck to include two guides, as per the teachings of Haefflinger et al., to integrate interlacing into a palletizing machine.

Response to Arguments

Applicant's arguments with respect to claims 31-50 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that the cited prior art does not disclose an interlacing device that is "sized" for "integration into a palletizing machine", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. A skilled artisan could use for example Keck's apparatus in a brick palletizing machine, e.g. an add-on feature.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Drey Adams
(D/3/07)